

# Exhibit H

**In the Matter Of:**

*ERIC WRIGHT vs  
UNITED STATES*

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*MEDFORD CASHION, M.D.*

*October 10, 2016*

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1 Q When you examined him, I take it he showed no signs  
2 of concussion, correct, sir?

3 A Yes, sir.

4 Q What history did you ask him about his memory of the  
5 fall and so forth?

6 A Well, one of the best ways to ask about memory is did  
7 he remember the fall, remember hitting his head, and he  
8 did.

9 Q Okay. Did you ask him anything else about the -- the  
10 history of his fall up to the time you were examining him  
11 other than whether or not he recalled the fall?

12 A Well, my normal practice would be to get all the  
13 details that are relevant. Why was he there in the first  
14 place, was he using his crutches, did he trip on his  
15 crutches, why did he trip, why did he fall, what exactly  
16 was he doing outside the ER at that time. All those  
17 details would have been related to this.

18 Q Okay. Other than trying to determine the mechanism  
19 of the fall and the whys and wherefores for him being at  
20 the location of the fall and how much of the fall he  
21 actually -- he remembers, did you ask him any other  
22 questions, sir?

23 A Well, I think -- well, I take a normal history and  
24 physical for this visit, yes. Yes, I go through the  
25 whole checklist and history and physical.

1 Q Sure. This is an individual that you had seen  
2 earlier in the evening, correct, sir?

3 A Yes, I did.

4 Q So did you go through his whole history again in  
5 terms of what medications --

6 When you say "history," I assume you're  
7 talking about medications he's on?

8 A Correct.

9 Q Illnesses and injuries he's had in the past, correct,  
10 sir?

11 A That is correct.

12 Q What else do you explore when you ask him -- when you  
13 go over that history?

14 A Well, the main points are what is the severity of the  
15 injury and his response to the injury. And also related,  
16 what caused it. Just a normal, reasonable history and  
17 physical that I would normally do.

18 Q Okay. So, again, I'm just trying to understand. You  
19 did ask him a series of questions about why he was at  
20 that location and the mechanism of his fall, right?

21 A That is correct.

22 Q You asked if him he recalled actually falling, and he  
23 responded he did, correct?

24 A That's correct.

25 Q I'm sure you asked him if he hit his head on

1 anything, and he responded that he did, correct?

2 A Yes, sir.

3 Q What did he say he hit his head on?

4 A He said he hit his head on the pavement.

5 Q Did he indicate whether or not he also made contact  
6 with a wheelchair rack?

7 A He may have said that. He may have said that there  
8 was a quick succession of falling and hitting his head,  
9 hitting the rack, hitting the ground. I asked him in  
10 detail about all those memories.

11 Q When you say "quick succession," are you talking  
12 about he fell quickly, hit his head on the rack, and then  
13 hit his head on the ground? Is that what you're saying?

14 A Yes, sir.

15 Q Did he describe this quick succession in any other  
16 way other than what I just said?

17 A No, sir.

18 Q Did he indicate to you how hard he hit the rack or  
19 the ground?

20 A Well, I would have tried to determine that from what  
21 he told me, but he was able to say he hit the ground  
22 without severe pain, without knocking himself out.

23 Q Did he indicate to you whether or not he was able to  
24 break his fall with any body part other than his head?

25 A I asked him what came into play as he fell with his

1 Q My impression from your testimony is is that the  
2 patient wasn't clear about all aspects of his fall, that  
3 he wasn't able to give you a clear understanding of all  
4 aspects of his fall; is that correct?

5 A No, sir. I asked him the details of his fall, and he  
6 gave me enough detail that I was satisfied he knew what  
7 happened at the time.

8 Q Okay. Okay. So other than obtaining as much detail  
9 as you could about the nature of the fall, and the fact  
10 that he told you that he did not lose consciousness,  
11 correct?

12 A That's correct.

13 Q I'm correct? He told you that?

14 A (Nods head).

15 Q What else did he tell you about what his  
16 recollections were of the fall and the aftermath of the  
17 fall before presenting to you and nurse Whitley in the  
18 ER? What else did he tell you about the circumstances of  
19 that fall and the -- and his reaction to the fall?

20 A Uh-huh. Well, as my note says, he wasn't knocked  
21 out. He didn't have a headache. He had no neck or back  
22 pain. No pain at all.

23 Q Did you ask him any other questions about his  
24 physical or mental condition, other than whether he was  
25 rendered unconscious or not, whether he had a headache or

1 neck pain, did you ask him any other questions about his  
2 condition?

3 A My note says I asked him about any problems with his  
4 eyes, his ears, his breathing, his abdomen, and the other  
5 details of his fall.

6 Q And where are you reading from?

7 A I'm reading from page 11, "Review of Systems."

8 Q Okay. The review of systems are happening while he's  
9 in the emergency room being examined by you, correct,  
10 sir?

11 A Correct.

12 Q So when you're asking about his abdomen and his ears,  
13 et cetera, you're asking that in the present tense as  
14 he's sitting there in your emergency room, correct, sir?

15 A Correct.

16 Q I'm still interested in questions you asked him  
17 relating to the fall and the aftermath of the fall  
18 between the time he hit the ground and the time he  
19 presented to you in the emergency room.

20 Did you ask him any other questions about his  
21 either mental or physical condition other than what  
22 you've already told us this morning?

23 A No, sir. My note pretty well covers my questions. I  
24 probably asked him related questions of -- and in various  
25 ways to make sure I got consistent answers.



1 Q Well, let me first off ask you, do you have a  
2 recollection of asking him any other related questions  
3 other than what you've already told us today between the  
4 time he fell -- dealing with the time period from the  
5 moment he fell to the moment he presented to you in the  
6 emergency room?

7 A Yes, sir. I remember asking him more than once about  
8 headaches, about any other pain, about how he felt, and  
9 so forth.

10 Q Okay. Headache and pain I got. You say "how he  
11 felt." How he felt in what respect, sir?

12 A Well, anything that he might want to offer or any  
13 normal question that I might ask, simply beginning with  
14 "How are you feeling?"

15 Q Okay. When you say "How are you feeling," that's a  
16 present-tense question, correct, sir?

17 A Yes, sir. That would be my normal practice to ask  
18 that question.

19 Q Do you have a recollection of asking Mr. Wright any  
20 of these normal questions other than what you've already  
21 described to us now? In other words, I'm not asking what  
22 you normally do. I'm asking you do you have a  
23 recollection of asking Mr. Wright any other questions  
24 about his physical or mental condition between the time  
25 he fell and the time he presented himself to you? Did

1 you ask him anymore questions about that?

2 A I'm sure I asked him many questions about his fall  
3 and how he felt.

4 Q What questions did you ask him other than what you've  
5 already told us today?

6 A Well, we had a reasonable diagnosis and plan. We had  
7 written instructions that we discussed, was he able on  
8 use his crutches, was he able to get home without any  
9 difficulty.

10 Q I'm sorry, sir. My question probably wasn't clear to  
11 you. We're going to get into that later. Because  
12 clearly you asked him more questions while he was in the  
13 ER room under your care and observation, up to the time  
14 he was discharged. I get that.

15 I just want to know if you discussed with Mr.  
16 Wright any of his symptoms or complaints from the moment  
17 he fell to the moment he entered the emergency room?

18 In other words, when you saw him in the  
19 emergency room did you ask him about that time period  
20 between the moment he fell and the moment he presented  
21 himself in the emergency room? Did you ask him any  
22 questions about his condition other than whether he was  
23 knocked out or not, whether he had a headache or not,  
24 whether he had any neck pain? Did you ask him any other  
25 questions about his physical or mental status?

1 MR. O'HALLORAN: Object to the form.

2 A Yes.

3 MR. O'HALLORAN: I don't think that was a  
4 complete list of the things he asked him about the fall.

5 Q (By Mr. Howard) If I missed something, I apologize.  
6 And other than headaches, other than neck pain, other  
7 than loss of consciousness, did you ask him anything  
8 about his condition during the time period I'm interested  
9 in?

10 MR. O'HALLORAN: He's just asking about  
11 specifically between after the fall was over until he  
12 came into the ER and you saw him. And you've answered  
13 that. You don't have to repeat that.

14 But if there's anything that you remember  
15 asking him about that specific period, you can tell him.  
16 If you don't, if there was nothing else, then --

17 A I have nothing else to add to the answer I've already  
18 given.

19 Q (By Mr. Howard) Okay. Do you know whether or not  
20 for any period of time after Mr. Wright hit his head that  
21 he was dazed or disoriented between the time he fell and  
22 the time he presented himself to you in the emergency  
23 room?

24 A Well, my note says he wasn't knocked out. My note  
25 says no loss of consciousness. So I would have asked him

1 details of was he dizzy, was he disoriented, was he  
2 altered like that at the time he fell or any time after  
3 he fell.

4 Q Did you ask him those questions?

5 A Yes, I did.

6 Q Is that reflected in your notes anywhere?

7 A Of course it is. It's right there.

8 Q Where is it reflected in your notes you asked him  
9 about being disoriented or dazed?

10 A When it says "knocked out," that implies I asked all  
11 the ways one can be knocked out. In other words, dizzy  
12 or daze.

13 And no loss of consciousness too also implies  
14 I'm probing him specifically for those symptoms.

15 Q Are you equating loss of consciousness with being  
16 dazed and disoriented?

17 A Yes, I am.

18 Q So, in other words, in your lexicon the words loss of  
19 consciousness include diminution in the level of  
20 consciousness? Is that what you're saying?

21 A Yes, sir.

22 Q Is that your custom and practice?

23 A Yes, sir.

24 Q Is that what you've always done?

25 A Always.

1 A Yes.

2 Q And you go on to say "The plan is for him to follow  
3 up on August 4th for this head injury, correct, sir?

4 A Correct.

5 Q Why did you want him to follow up on August 4th?

6 A That was the next available office hours for the  
7 clinic to see the patient.

8 Q Is there a particular reason why you wanted the  
9 clinic to see this patient on August 4th?

10 A Well, that was an appropriate plan, to follow up this  
11 patient for his head injury.

12 Q Why is it an appropriate plan to do that, sir?

13 A Well, he was living alone. He had a caregiver that  
14 could look in on him or phone him. But he simply was by  
15 himself out in the country, and I felt he needed close  
16 following.

17 Q Why did you feel he needed close following?

18 A As I said, he lived alone despite having a caregiver  
19 nearby, and he had a set of written instructions about  
20 what to do in case something went wrong. But he was by  
21 himself, and I felt he needed more help than just the  
22 caregiver alone on that day.

23 Q When you say something -- "in case something went  
24 wrong," are you talking about with his afib, with his  
25 bipolar condition, PTSD, or are we talking about with

1 Q Is that another typo or was he moving them?

2 A Well, that just simply refers that he had normal  
3 power in his extremities, and taking into consideration  
4 that the one was injured.

5 Q What do you mean "normal power" with respect to his  
6 left leg? How did he have normal power with respect to  
7 that left leg?

8 A Well, I normally ask a person to either move their  
9 extremity for me or just actually watch it being used to  
10 make sure it was moving normally.

11 Q So, in other words, you had him walk so you could  
12 watch him walk?

13 A Well, I didn't watch him walk because he was limping  
14 and in pain. But I knew he was able to use crutches, and  
15 so I simply observed how his extremities worked as he lay  
16 on the stretcher.

17 Q Okay. Let's go to page 12, sir.

18 A (Complied).

19 Q Under your "Assessment and Plan," again you repeat  
20 the abrasion and contusion of the forehead, correct?

21 A Yes, sir.

22 Q And, again, in your lexicon contusion includes the  
23 concept of a bump; is that right?

24 A Yes, sir.

25 Q You said "Without concussion," correct?

1 observation." So were you recommending that the patient  
2 go home?

3 A Yes, sir.

4 Q Okay. Did the patient agree with that  
5 recommendation?

6 A Yes, he did.

7 Q He was comfortable with it?

8 A Yes, he was.

9 Q Did you recommend to him that he stay overnight for  
10 observation?

11 A No, sir.

12 Q Did you recommend that he have a CT of his brain?

13 A No, sir.

14 Q Why did you not recommend that the patient stay  
15 overnight?

16 A It was a reasonable medical analysis of this  
17 situation for this patient, that he was stable with  
18 normal vital signs. We had a reasonable plan that we all  
19 agreed to. We discussed the plan, and we were  
20 comfortable with that situation.

21 Q What time of day or night did you make that  
22 recommendation that he go home, sir?

23 A Well, the end of his visit was somewhere in the note  
24 there. I don't know where. But it would have been  
25 around 10:00 o'clock at night.

1 unable to bear weight after the fall; is that correct,  
2 sir?

3 A Yes, sir.

4 Q And when we say "the fall" we're talking about the  
5 fall onto his left knee on an earlier date, July 7th --  
6 July 27th of 2014, correct?

7 A Yes, sir.

8 Q So you did have an understanding that on August 2nd  
9 of 2014, due to that fall Mr. Wright was unable to bear  
10 weight on his left leg; is that correct, sir?

11 A That is correct.

12 Q Did you ever make a request on August 2nd of 2014 for  
13 Mr. Wright to see a neurologist or a neurosurgeon?

14 A No, sir.

15 Q Did you ever make a request to have Mr. Wright stay  
16 overnight at the hospital?

17 A No, sir.

18 Q You had authority to make that determination on your  
19 own, didn't you, sir, --

20 MR. O'HALLORAN: Object to the form.

21 Q (By Mr. Howard) -- for Mr. Wright to stay at the  
22 hospital overnight, or did you have to get authority from  
23 the hospital to do that?

24 A No, sir, it was not my authority. I would have to  
25 speak with the hospitalist about that.



1 Q Do you know if you spoke to a hospitalist about  
2 allowing Mr. Wright to spend the night on August 2nd of  
3 2014?

4 A No, sir.

5 Q No, you didn't, or, no, you don't know if you did?

6 A No, sir, I did not speak to the hospitalist about him  
7 being admitted that night.

8 Q Did you have authority to order a CT on your own, or  
9 did you have to clear that with the hospitalist as well?

10 A No, sir, I had authority.

11 Q But you did not order one, correct?

12 A Yes, sir.

13 Q Okay. I'm going to take you to page 46, the last  
14 page.

15 A (Complied).

16 Q By the way, is there a difference at -- strike that.

17 In August of 2014, was there a difference at  
18 the VA between discharge instructions or after-care  
19 instructions?

20 A No, sir.

21 Q That would have meant the same thing?

22 A Yes, sir.

23 Q What were they called at the VA in those days?

24 A My note says "Care Note." I believe that was the  
25 brand name of the instructions they were using.